IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT AT DANVILLE, VA FILED-6-Clas OCT 25 2005

JOHN F. CORCORAN, CLERK BY: HMCDCARD DEPUTY CLERK

ALFRED MILTON RIVERA,)
Petitioner,) Civil Action No. 7:05-cv-00638
v.)) ORDER
BLEDSOE,) By: Hon. Jackson L. Kiser
Respondent.) Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ORDERED

that the petition for writ of habeas corpus filed by the petitioner, pursuant to 28 U.S.C. § 2241, is construed as a motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255 and **DISMISSED** without prejudice as successive.

The Clerk shall strike the action from the active docket of the court, and send certified copies of this order and the accompanying memorandum opinion to the petitioner and counsel of record for the respondent.

ENTER: This 25th day of October, 2005.

Senior United States District Judge